

Senate Bill No. 897

Passed the Senate September 8, 2011

Secretary of the Senate

Passed the Assembly September 6, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 1569.686 to the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

SB 897, Leno. Residential care facilities for the elderly.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. Existing law authorizes the director to take enforcement action, including, but not limited to, actions to suspend or revoke a license and to impose civil penalties for violations. Under existing law, a violation of these provisions is a crime.

This bill would enact the RCFE Residents Foreclosure Protection Act of 2011 which would, with certain exceptions, require the licensee of a facility to notify the department, the State Long-Term Care Ombudsman, and all residents, applicants, and, if applicable, their legal representatives, in writing within 2 business days of specified events, and would require the department to initiate a compliance plan, noncompliance conference, or other appropriate action upon receipt of this notice.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the RCFE Residents Foreclosure Protection Act of 2011.

SEC. 2. The Legislature finds and declares all of the following:

(a) There are currently approximately 8,000 residential care facilities for the elderly (RCFEs) in California.

(b) The vast majority of RCFEs are located in single-family dwellings, with a mortgage on the property.

(c) The best interests of the residents of RCFEs requires procedures to ensure that they are notified and protected whenever their home is subject to a foreclosure or other event indicating significant financial distress.

(d) Therefore, it is the intent of the Legislature in enacting this act to establish procedures to protect RCFE residents by providing them and the state with information when an RCFE is suffering foreclosure proceedings or experiencing financial distress.

SEC. 3. Section 1569.686 is added to the Health and Safety Code, to read:

1569.686. (a) A licensee shall notify the department, the State Long-Term Care Ombudsman, all residents, and, if applicable, their legal representatives, in writing, within two business days, and shall notify all applicants for potential residence, and, if applicable, their legal representatives, prior to admission, of any of the following events, or knowledge of the event:

(1) A notice of default, notice of trustee's sale, or any other indication of foreclosure is issued on the property.

(2) An unlawful detainer action is initiated against the licensee.

(3) The licensee files for bankruptcy.

(4) The licensee receives a written notice of default of payment of rent described in Section 1161 of the Code of Civil Procedure.

(5) A utility company has sent a notice of intent to terminate electricity, gas, or water service on the property within not more than 15 days of the notice.

(b) Upon receipt of the notice required pursuant to subdivision (a), the department shall initiate a compliance plan, noncompliance conference, or other appropriate action.

(c) A licensee who fails to comply with this section may be liable for civil penalties in an amount not to exceed one hundred dollars (\$100) for each day of the failure to provide notification required in this section. The total civil penalty shall not exceed two thousand dollars (\$2,000). If a resident is relocated without the notification required by this section, and suffers transfer trauma or other harm to his or her health or safety, the department may also suspend or revoke the licensee's license and issue a permanent revocation of the licensee's ability to operate or act as an administrator of a facility anywhere in the state. Suspension or

revocation proceedings pursuant to this subdivision shall be conducted in compliance with Section 1569.51.

(d) For purposes of this section, “property” means the land or building in which a residential care facility for the elderly is located.

(e) This section shall not apply to licensees of residential care facilities for the elderly that have obtained a certificate of authority, as defined in paragraph (5) of subdivision (c) of Section 1771, to offer continuing care contracts, as defined in paragraph (8) of subdivision (c) of Section 1771.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2011

Governor